

REMARKS

The references cited by the Examiner in the rejections of the claims along with the Examiner's comments have been diligently studied. Reconsideration of the application in light of this letter is respectfully requested.

No claims have been amended. No claims have been canceled. No new claims have been added. Therefore, claims 1-11, 20 and 21 are under active consideration.

Claims 1-4, 20 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,970,277 to Riblet (hereinafter Riblet) in view of U.S. Patent No. 4,597,471 to Anderson (hereinafter Anderson) in view of U.S. Patent No. 4,308,934 to R.A. Jackson et al. (hereinafter Jackson) and further in view of U.S. Patent No. 878,455 to Carter (hereinafter Carter). In support of the rejection, the Examiner commented,

Regarding claims 1-4, Riblet discloses a lock (11) comprising: an upright (U1) having a first surface (U1), a pair of side members (24, 25) pivotally coupled to an angle bracket (10) by a fulcrum bar (32); an inner jaw (27) and outer jaw (26) coupled to the side members (24, 25); wherein the inner jaw (27) is mounted beneath the plane defined by the fulcrum bar and an outer jaw (26). Riblet does not disclose one of the inner or outer jaws having a substantially flat contact surface adapted to contact the first surface of the upright (U1) over a planar region. Anderson discloses an apparatus for mounting on an upright (84) comprising an outer jaw having various contact surfaces (82, 158, 208, 280, 284, 290), which further include a flat contact surface (130) adapted to contact the upright over a planar region. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the surface of one of the inner and outer jaws to be flat as an alternative means for gripping the upright as taught by Anderson (col. 6, lines 17 ff.). Riblet in view of Anderson discloses the lock as applied above but does not disclose the transverse cross-sectional area of the one of the inner and outer jaws being generally rectangular in shape. Jackson teaches a locking member (88) comprising an outer jaw (at 96 in Fig. 2) having a flat contact surface and a generally rectangular transverse cross-sectional area for mounting onto an upright (26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the one of the inner and outer jaw to be generally rectangular in transverse cross-section because one

would have been motivated to provide increased contact area between the upright and lock to enhance frictional gripping of the jaw upon the upright as inherently taught by Jackson and further since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Riblet in view of Anderson in view of Jackson discloses the lock as applied above but does not disclose one or both of the inner and outer jaws being capable of pivoting relative to the side members. Carter discloses an apparatus (Fig. 1) for mounting on an upright (5) having an outer jaw (15) pivotally mounted on a bar (14) coupled to a pair of side members (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified one or both of the inner and outer jaws to be pivotally mounted to the side members by a bar because one would have been motivated to permit a rolling surface to provide a greater degree of frictional gripping action as taught by Carter (lines 60-64). Regarding claims 20 and 21, Riblet in view of Anderson in view of Jackson in view of Carter does not disclose the upright being formed of metal or fiberglass. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the combination by forming the upright of various materials including metal and fiberglass since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as is well known in the art.

This rejection is respectfully traversed.

With respect to claims 1, 20 and 21, applicant claims a lock for mounting an angle bracket on an upright comprising, inter alia, a pair of side members and a jaw pivotally coupled to said pair of side members, the jaw comprising a substantially flat contact surface which is adapted to contact the upright over a planar region, the height of said jaw being greater than its thickness. To the contrary, none of the cited references, either separately or in combination, teach, disclose or suggest a lock for mounting an angle bracket on an upright which includes a jaw of applicant's claimed construction. Due to its particular construction, applicant's claimed jaw is able to contact the surface of an upright over an elongated, rectangular, planar region, thereby establishing a relatively large area of contact between the jaw and the upright on which the lock is mounted

without necessitating that the jaw bite, dig or engage into said upright, which is the principal object of the present invention.

Applicant respectfully disagrees with the Examiner's contention that Jackson discloses "an outer jaw (at 96 in Fig. 2) having a flat contact surface and a generally rectangular transverse cross-sectional area for mounting onto an upright (26)." Specifically, applicant respectfully contends that Jackson does not include an outer jaw having a flat contact surface. Rather, Jackson discloses a U-shaped clamp (88) which is shaped to include a plurality of short teeth (98) which serve to releasably engage the upright. *See* col. 4, lines 20-26 and 42-44 of Jackson. It is important to note that none of the references cited by the Examiner recognize the principal problem which applicant's claimed invention solves: namely, to construct a pivotally mounted jaw for a lock which contacts the surface of an upright over an elongated, rectangular, planar region, thereby establishing a relatively large area of contact between the jaw and the upright on which the lock is mounted without having the jaw bite, dig or engage into said upright.

Accordingly, applicant respectfully disagrees with the Examiner's contention that it would have been obvious to construct a jaw for a lock to be generally rectangular in transverse cross-section "because one would have been motivated to provide increased contact area between the upright and lock to enhance frictional gripping of the jaw upon the upright as inherently taught by Jackson". As noted above, clamp (88) in Jackson includes a plurality of short teeth (98) which bite into wood (26). As a result, applicant fails to see how the clamp (88) in Jackson could serve to inherently teach the use of a rectangular jaw having an increased and substantially flat contact area (as claimed in applicant's claimed invention) to enhance the frictional, non-biting grip of the jaw on an upright, as suggested by the Examiner.

With respect to claims 2-4, applicant contends that claims 2-4 are in allowable form for being dependent upon claim 1, which applicant believes is in allowable form for the reasons noted above.

Withdrawal of the rejection of claims 1-4, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Riblet in view of Anderson in view of Jackson and further in view of Carter is respectfully urged.

Applicant wishes to note for the record that on page 4 of the final Office Action dated 9-5-03, the Examiner commented that, " Claims 5-11 are allowed."

The prior art made of record and not relied upon by the Examiner is noted.

Allowance of the application with claims 1-11, 20 and 21 is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Kriegsman & Kriegsman

By: Daniel S. Kriegsman

Daniel S. Kriegsman
Reg. No. 40,057
665 Franklin Street
Framingham, MA 01702
(508) 879-3500

Date: 12-2-03